

AN ACT

relating to the scoring criteria for an application for a low income housing tax credit and the allocation of those credits to developments reserved for elderly persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 2306.6710(b) and (f), Government Code, are amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of a resolution concerning the development that is voted on and adopted by the following, as applicable:

(i) the governing body of a municipality in which the proposed development site is to be located;

(ii) subject to Subparagraph (iii), the commissioners court of a county in which the proposed development

1 site is to be located, if the proposed site is to be located in an
2 area of a county that is not part of a municipality; or

3 (iii) the commissioners court of a county
4 in which the proposed development site is to be located and the
5 governing body of the applicable municipality, if the proposed site
6 is to be located in the extraterritorial jurisdiction of a
7 municipality;

8 (C) the income levels of tenants of the
9 development;

10 (D) the size and quality of the units;

11 (E) ~~[the commitment of development funding by~~
12 ~~local political subdivisions,~~

13 ~~[(F)]~~ the rent levels of the units;

14 (F) ~~[(G)]~~ the cost of the development by square
15 foot;

16 (G) ~~[(H)]~~ the services to be provided to tenants
17 of the development;

18 (H) ~~[(I)]~~ whether, at the time the complete
19 application is submitted or at any time within the two-year period
20 preceding the date of submission, the proposed development site is
21 located in an area declared to be a disaster under Section 418.014;

22 (I) ~~[(J)]~~ quantifiable community participation
23 with respect to the development, evaluated on the basis of written
24 statements from any neighborhood organizations on record with the
25 state or county in which the development is to be located and whose
26 boundaries contain the proposed development site; and

27 (J) ~~[(K)]~~ the level of community support for the

1 application, evaluated on the basis of a written statement from the
2 state representative who represents the district containing the
3 proposed development site;

4 (2) uses criteria imposing penalties on applicants or
5 affiliates who have requested extensions of department deadlines
6 relating to developments supported by housing tax credit
7 allocations made in the application round preceding the current
8 round or a developer or principal of the applicant that has been
9 removed by the lender, equity provider, or limited partners for its
10 failure to perform its obligations under the loan documents or
11 limited partnership agreement; and

12 (3) encourages applicants to provide free notary
13 public service to the residents of the developments for which the
14 allocation of housing tax credits is requested.

15 (f) In evaluating the level of community support for an
16 application under Subsection (b)(1)(J) [~~(b)(1)(K)~~], the department
17 shall award:

18 (1) positive points for positive written statements
19 received;

20 (2) negative points for negative written statements
21 received; and

22 (3) zero points for neutral statements received.

23 SECTION 2. Section [2306.6711](#), Government Code, is amended
24 by adding Subsections (h) and (i) to read as follows:

25 (h) Notwithstanding Section [2306.6710](#)(d), and except as
26 necessary to comply with the nonprofit set-aside required by
27 Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section

1 42(h)(5)), the board may not allocate to developments reserved for
2 elderly persons and located in an urban subregion of a uniform state
3 service region a percentage of the available housing tax credits
4 allocated to developments located in that subregion that is greater
5 than the percentage that results from the following formula, unless
6 there are no other qualified applicants in that region:

7
$$\text{MP} = \frac{(\text{LEH} - \text{ERU})}{(\text{TLH} - \text{TEU})} \times 100$$

8 where:

9 "MP" is the maximum percentage of the available housing tax
10 credits allocated to developments in the subregion that may be
11 allocated to developments reserved for elderly persons;

12 "LEH" is the number of low income elderly households in the
13 subregion;

14 "ERU" is the number of existing units reserved for elderly
15 persons in developments located in the subregion that already
16 receive housing tax credits;

17 "TLH" is the total number of low income households in the
18 subregion; and

19 "TEU" is the total number of existing units in developments
20 located in the subregion that already receive housing tax credits.

21 (i) Subsection (h) applies only to a uniform state service
22 region that contains a county with a population of more than one
23 million.

24 SECTION 3. Section [2306.6725](#), Government Code, is amended
25 by amending Subsections (a) and (d) and adding Subsections (e) and
26 (f) to read as follows:

27 (a) In allocating low income housing tax credits, the

1 department shall score each application using a point system based
2 on criteria adopted by the department that are consistent with the
3 department's housing goals, including criteria addressing the
4 ability of the proposed project to:

5 (1) provide quality social support services to
6 residents;

7 (2) demonstrate community and neighborhood support as
8 defined by the qualified allocation plan;

9 (3) consistent with sound underwriting practices and
10 when economically feasible, serve individuals and families of
11 extremely low income by leveraging private and state and federal
12 resources, including federal HOPE VI grants received through the
13 United States Department of Housing and Urban Development;

14 (4) serve traditionally underserved areas;

15 (5) demonstrate support from local political
16 subdivisions based on the subdivisions' commitment of development
17 funding;

18 (6) remain affordable to qualified tenants for an
19 extended, economically feasible period; and

20 (7) [~~6~~] comply with the accessibility standards
21 that are required under Section 504, Rehabilitation Act of 1973 (29
22 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart
23 C.

24 (d) For each scoring criterion, the department shall use a
25 range of points to evaluate the degree to which a proposed project
26 satisfies the criterion. The department may not award:

27 (1) a number of points for a scoring criterion that is

1 disproportionate to the degree to which a proposed project complies
2 with that criterion; or

3 (2) to a proposed project for the general population a
4 number of points for a scoring criterion that is different than the
5 number of points awarded for that criterion to a proposed project
6 reserved for elderly persons if the proposed projects comply with
7 the criterion to the same degree.

8 (e) In establishing for the 2016 and 2017 qualified
9 allocation plans the scoring criterion related to the commitment of
10 development funding by local political subdivisions, the
11 department shall significantly reduce for each place regardless of
12 population the amount in funding, per low income unit, that is
13 required for a proposed project to receive the applicable number of
14 points for that criterion. After the reduction, the amount of
15 required funding may be a de minimis amount.

16 (f) Subsection (e) and this subsection expire September 1,
17 2019.

18 SECTION 4. (a) The change in law made by this Act to
19 Section 2306.6711, Government Code, applies only to the allocation
20 of low income housing tax credits for an application cycle that
21 begins on or after the effective date of this Act. The allocation
22 of low income housing tax credits for an application cycle that
23 begins before the effective date of this Act is governed by the law
24 in effect on the date the application cycle began, and the former
25 law is continued in effect for that purpose.

26 (b) The change in law made by this Act to Sections 2306.6710
27 and 2306.6725, Government Code, applies only to an application for

1 low income housing tax credits that is submitted to the Texas
2 Department of Housing and Community Affairs during an application
3 cycle that begins on or after the effective date of this Act. An
4 application that is submitted during an application cycle that
5 began before the effective date of this Act is governed by the law
6 in effect at the time the application cycle began, and the former
7 law is continued in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 3311 was passed by the House on May 8, 2015, by the following vote: Yeas 123, Nays 19, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3311 on May 28, 2015, by the following vote: Yeas 128, Nays 16, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3311 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 28, Nays 3.

Secretary of the Senate

APPROVED: _____

Date

Governor